UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/647,975	08/26/2003	Suresh Kumar	170101-1420	2836

71247   7590   07/16/2008
Client 170101 c/o
THOMAS , KAYDEN , HORSTEMEYER& RISLEY , LLP
600 GALLERIA PARKWAY
Suite 1500
ATLANTA, GA 30339-5948

EXAMINER
KARDOS, NEIL R

ART UNIT	PAPER NUMBER
3623	

MAIL DATE	DELIVERY MODE
07/16/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
	10/647,975	KUMAR ET AL.
Office Action Summary	Examiner	Art Unit	
	Neil R. Kardos	3623	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS,
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>18 April 2008</u>.
2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
   closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-25,33 and 34</u> is/are pending in the application.
   4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) <u>1-25,33 and 34</u> is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
   a)☐ All b)☐ Some * c)☐ None of:
   1.☐ Certified copies of the priority documents have been received.
   2.☐ Certified copies of the priority documents have been received in Application No. _____.
   3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
      application from the International Bureau (PCT Rule 17.2(a)).
   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☒ Information Disclosure Statement(s) (PTO/SB/08)
   Paper No(s)/Mail Date <u>5/29/08</u>.

4)☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

DETAILED ACTION

1.   This is a **NON-FINAL** Office action on the merits in response to Applicant's remarks

filed on April 18, 2008. Claims 33-34 have been amended. Claims 26-32 and 35-36 have been

cancelled. Currently, claims 1-25 and 33-34 are pending and have been examined.

Remarks

2.   Rejection under 35 U.S.C. § 101

        Examiner acknowledges Applicant's amendments to claims 33-34. However, these

amendments are not sufficient to overcome the § 101 rejections set forth in the previous office

action. Furthermore, there are additional § 101 issues present in other claims. Please see the §

101 rejections below.

3.   Double Patenting Rejection

        Examiner acknowledges Applicant's postponement of response to the double patenting

rejections set forth in the previous office action. The double patenting rejection is maintained

and is set forth below.

4.   Rejection under 35 U.S.C. § 102

        Applicant's amendments to claims 33-34 and cancellation of claims 26-32 and 35-36 is

sufficient to overcome the § 102 rejections set forth in the previous office action. New prior art

rejections are set forth below. These rejections are necessitated by Applicant's amendments.

5.   Rejection under 35 U.S.C. § 103

Examiner acknowledges Applicant's statement to disqualify a reference (Braumoeller,

US 7,295,990) under 35 U.S.C. § 103(c). Accordingly, new art has been applied below.

Claim Objections

6.   Claims 33-34 are objected to because of the following informalities:

7.   Claims 33-34: It is not clear what Applicant is trying to claim. The claim language could

be construed to be directed to either a system or an article of manufacture (i.e. a computer-

readable medium). Examiner believes that *tangible computer memories collectively containing a*

data structure constitutes language directed to a computer-readable medium (containing

computer-executable instructions). However, the claim language does not recite that said

computer-readable medium carries any instructions capable of causing a computer to carry out a

series of steps. As currently claimed, the limitations of claims 33-34 merely recite a collection of

data (without instructions) stored in a computer memory. Examiner anticipates that Applicant

will overcome this objection by overcoming the § 101 rejection, below. Appropriate correction

is required.

Claim Rejections - 35 USC § 101

8.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or
> any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and
> requirements of this title.

9.   Claims 1-5, 7-22, 23-25, and 33-34 are rejected under 35 U.S.C. 101 because the

claimed invention is directed to non-statutory subject matter.

Claims 1 and 7: Claims 1 and 7 are directed toward the statutory category of a process. In order for a claimed process to be patentable subject matter under 35 U.S.C. § 101, it must either: (1) be tied to another statutory class (such as a particular apparatus), or (2) transform underlying subject matter (such as an article or materials) to a different state or thing. *See Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972). If neither of these requirements is met by the claim, the method/process is not patentable subject matter under § 101. Thus, to qualify as a statutory process under § 101, the claim should positively recite the other statutory class to which it is tied (e.g. by identifying the apparatus that accomplishes the method steps), or positively recite the subject matter that is being transformed (e.g. by identifying the material that is being changed to a different state).

Here, there is a nominal recitation of a computing system in the preamble of both claims. However, the claims still fail to qualify as patentable subject matter because the claimed methods (gathering data and generating a forecast) can be carried out in the human mind.

Claim 23: Claim 23 recites a system comprising various subsystems. These subsystems as recited do not necessarily constitute a physical structure, such as computer hardware. Rather, they could simply be procedures that are followed in order to achieve a desired outcome, such as a collection of computer instructions (i.e. software). The claim does not recite any physical structures necessary to constitute a system. Therefore, the claim does not fall within a statutory class of patentable subject matter.

Claims 33-34: It is not clear whether claims 33-34 are directed to a system or article of

manufacture (see claim objections, above).

If the claims are directed to a system, the data structures as recited do not necessarily

constitute a physical structure, such as computer hardware. Rather, they could simply be

procedures that are followed in order to achieve a desired outcome, such as a collection of

computer instructions (i.e. software). The claim(s) do(es) not recite any physical structures

necessary to constitute a system. Therefore, the claim(s) do(es) not fall within a statutory class

of patentable subject matter.

If the claims are directed to a computer-readable medium, they recite functional

descriptive material (i.e. computer program) that does not impart functionality when employed as

a computer component because the functional descriptive material is not tangibly embodied on a

computer-readable medium. (See MPEP 2106.01(I)).

Claims 2-5, 8-22, and 24-25 are rejected for failing to remedy the deficiencies of the

claims from which they depend.

Claim Rejections - 35 USC § 103

10.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

11.   **Claims 1-25 and 33-34 are rejected under 35 U.S.C. 103(a) as being unpatentable**
over Singh (US 2002/0169657) in view of Mallon (US 2003/0004781), and further in view of
Clemen, "Combining Forecasts".

Claim 1: Singh discloses a method for projecting future purchasing activity for a selected
item, comprising:

- compiling historical purchasing data indicating, for each of a plurality of foregoing
  time periods, a level of item purchasing activity performed with respect to the
  selected item (see ¶ 42; ¶ 47, disclosing using compiled historical point-of-sale or
  customer order data to create a forecast; ¶ 52, disclosing a demand history
  database; ¶ 85, disclosing collecting data from various time periods);

- generating from the compiled historical purchasing data a second projection of
  future purchasing activity levels with respect to the selected item (see id. above;
  see also ¶ 48, disclosing determining a best forecast model); and

While Singh discloses compiling historical data for a particular item and using that data
to generate a projection of future purchasing activity levels with respect to that item, Singh does
not explicitly disclose wherein that data is browsing data.

Mallon teaches using browsing data to generate a forecast of demand (see ¶¶ 40-41,
disclosing measuring online browsing activities; ¶ 35).

It would have been obvious to one of ordinary skill in the art at the time the invention
was made to use the browsing data taught by Mallon as one of the history streams disclosed by
Singh (see figure 2). One of ordinary skill in the art would have been motivated to do so in order
to determine the most accurate forecast for a particular product (see Singh, ¶ 48: lines 5-10).

Furthermore, this combination of known elements produces a result that would be predictable to one of ordinary skill in the art.

Finally, it is not expressly clear whether Singh discloses blending the generated first and second projections of future purchasing activity levels with respect to the selected item to generate a third projection of future purchasing activity levels with respect to the selected item. Singh at least discloses combining (blending) various historical data with various forecasting algorithms to arrive at a blended forecast model (see figure 2). Singh also discloses "a multiple model framework that allows multiple alternative forecasting algorithms… to be associated with various data streams of demand history to produc[e] advanced forecasting models" (¶ 20). (see also ¶¶ 41-43, 47-48, 52-53 for more on combining/blending forecasts).

Even if Singh does not explicitly disclose blending forecasts, Clemen discloses a variety of techniques for combining forecasts (see Clemen generally). Furthermore, it would appear from Clemen that combining forecasts is old and well-known in the art (see annotated bibliography on pages 569-583). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the forecasts of Singh according to the techniques disclosed by Clemen because the claimed invention is merely a combination of old elements, and the combination of the elements does not destroy their functionality. This combination of known elements also produces a result that would be predictable to one of ordinary skill in the art.

Claim 2: Singh discloses placing a resupplying order for the selected item based upon the third projection (see ¶ 93, disclosing using the forecast in manufacturing planning; ¶ 99, disclosing using the forecast to determine supply; ¶¶ 3-4).

Claim 3: Singh discloses a method wherein the first, second, and third projections of future purchasing activity levels each specify a level of purchasing activity with respect to the selected item during each of a plurality of target time periods following the foregoing time periods (see page 10: tables 2 and 3), the method further comprising determining that an external event occurred that is likely to have influenced the level of item purchasing activity performed with respect to the selected item during a selected one of the plurality of target time periods (see ¶ 55).

Singh also discloses weighing the most recent history data to give it more of an impact than older history data (see ¶ 85).

Clemen teaches wherein the blending comprises, for each of the plurality of target time periods:

- weighting the level specified by the first projection relative to the level specified by the second projection (see at least p. 561: col.2: ¶ 3-4, including ¶ 1 on p. 562; annotated bibliography), and

- combining the levels specified by the first and second projections in accordance with their weights (see id.),

- wherein the weighting for the selected target time period downgrades the weight of
  the level specified by the second projection relative to the level specified by the
  first projection (see id.).

Thus, it would have been obvious to one of ordinary skill in the art at the time the

invention was made to combine the forecasts of Singh according to the techniques disclosed by

Clemen because the claimed invention is merely a combination of old elements, and the

combination of the elements does not destroy their functionality. This combination of known

elements also produces a result that would be predictable to one of ordinary skill in the art.

Claim 4: Singh discloses wherein the external event determined to have occurred is an

external event that is likely to have limited the availability of the selected item (see ¶ 81: lines 5-

9, disclosing variations in demand due to unusual market conditions; see also ¶ 55: lines 32-37; ¶

56: lines 11-15; ¶ 58: lines 9-19).

Claim 5: Singh discloses wherein the external event determined to have occurred is an

external event that is likely to have prevented the purchase of the selected item (see id.

references from claim 4).

Claim 6: Claim 6 is substantially similar to claim 1, except that it is directed to a

computer-readable medium. Singh discloses this limitation (see figures 3 and 8; ¶ 107); thus,

claim 6 is rejected under similar rationale as claim 1.

Claim 7: The limitations recited in claim 7 are substantially similar to limitations recited in claim 1. Thus, claim 7 is rejected under similar rationale as claim 1.

Claim 8: Singh discloses wherein the transforming produces a projection of future purchasing activity specifying an anticipated level of purchasing activity for each of a plurality of future time periods (see page 10: tables 2 and 3, following ¶¶ 96 and 98).

Claim 9: Singh does not explicitly disclose the limitations of this claim.

Mallon discloses wherein the transforming comprises:

- using the retrieved data to generate a projection of future browsing activity performed at the merchant with respect to the selected item (see ¶ 5, disclosing using past on-line behavior to predict future on-line action, including click-throughs of banner advertisements; ¶¶ 31-34, disclosing using past online activity to predict future economic activity)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include in the forecasting method of Singh the ability to forecast future browsing activity as taught by Mallon because the claimed invention is merely a combination of old elements, and in the combination each element would have performed the same function as it did separately. This combination of known elements produces a result that would be predictable to one of ordinary skill in the art (e.g. forecasting browsing activity rather than purchasing activity).

Singh and Mallon do not explicitly disclose using the generated projection of future browsing activity to predict future purchasing activity at the merchant for the selected item.

However Mallon does disclose predicting future click-through and purchasing behavior by analyzing past on-line behavior (see ¶ 5). Furthermore, it is old and well-known to use advertising data to forecast demand (see e.g. US 2004/0249698 to Kuono, generally; US 2003/0191653 to Brinbaum, ¶ 5). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to forecast purchase demand as taught by Singh using the projected browsing/advertising activity disclosed by Mallon. This combination of known elements produces a result that would be predictable to one of ordinary skill in the art.

Claim 10: Singh discloses wherein the projection is generated using time-series forecasting techniques (see figures 4A-4D, disclosing using seasonal effects on time-series data; ¶ 5). Furthermore, this technique is old and well-known in the forecasting arts.

Claim 11: Singh discloses wherein the projection of future activity generated is a time-series of values characterizing future activity at each of a plurality of future times (see figures 4A-4D; ¶ 5; page 10: tables 2-3), and wherein future purchasing activity is predicted by applying a time-series of conversion ratios based upon conversion history at the merchant (see figure 4C, applying seasonal conversion ratios to data).

Singh does not explicitly disclose wherein the activity is browsing activity. However, this deficiency is accounted for in the rejection of claim 1, above.

Claim 12: Singh discloses wherein the merchant operates a web site (see ¶ 3, disclosing using the invention in conjunction with an e-business), and wherein a web log is produced in connection with the operation of the web site, further comprising:

- extracting activity data from the produced web log (see figure 3: 301a-c; ¶ 52, disclosing storing the activity data in a database); and
- storing the extracted data for retrieval (see id.).

Singh does not explicitly disclose wherein the activity is browsing activity. However, this deficiency is accounted for in the rejection of claim 1, above.

Claim 13: Singh discloses wherein the merchant operates a physical store, further comprising:

- capturing activity data within the physical store (see ¶ 3: 301a-c; ¶ 52); and
- storing the captured data for retrieval (see id.).

Singh does not explicitly disclose wherein the activity is browsing activity. However, this deficiency is accounted for in the rejection of claim 1, above.

Claim 14: Singh discloses wherein the merchant operates a plurality of locations at which the selected item is available for purchase, and wherein the transforming is performed to produce a projection of future purchasing activity specifying an anticipated level of purchasing activity for each of the plurality of merchant locations (see figure 1: item 103, depicting location-specific forecasts; ¶¶ 41-42, 44).

Claim 15: Singh does not explicitly disclose wherein, for each shipping center, the anticipated level of purchasing activity is determined using browsing activity data from customers whose shipping address is associated with the shipping center.

However, Singh does disclose forecasting demand for a location, a market, and a region (see e.g. ¶¶ 41-42). From a functional sense, the claimed invention is indistinguishable from Singh. In a basic sense, what is claimed is using demand data from customers associated with a particular location when forecasting demand for that location. Singh discloses this basic limitation (see id.). The claimed invention uses a shipping address to make this association. Singh does not explicitly disclose using a shipping address to associate customers with a location; however, this association is old and well-known. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use shipping addresses to associate customers and their demand data with a particular location as disclosed by Singh. This combination of known elements produces a result that would be predictable to one of ordinary skill in the art.

Singh does not explicitly disclose wherein the activity is browsing activity. However, this deficiency is accounted for in the rejection of claim 1, above.

Claim 16: Singh does not explicitly disclose wherein, for each shipping center, the anticipated level of purchasing activity is determined using browsing activity data from customers whose shipping address is associated with any of the shipping centers.

However, it is old and well-known to forecast demand based on all customers, and then distribute demand among a variety of manufacturing or distribution facilities. Thus, it would

have been obvious to one of ordinary skill in the art at the time the invention was made to apply

well-known forecasting and production techniques to the forecasting methodology of Singh.

This combination of known elements produces a result that would be predictable to one of

ordinary skill in the art.

Singh does not explicitly disclose wherein the activity is browsing activity. However,

this deficiency is accounted for in the rejection of claim 1, above.

Claims 17-20: Singh discloses using the projection of future purchasing activity to

specify and operational parameter used to operate the merchant (see e.g. ¶ 105: ln. 22-26; figure

8: items 806-808). Singh does not explicitly disclose wherein the operational parameter is

staffing level or inventory reorder level for the selected item or its complement. However, it is

old and well-known to adjust such parameters based on forecasted demand (see e.g. US

6,249,774 to Roden for inventory replenishment; US 6,912,505 to Linden for complementary

products; Singh ¶ 105 for staffing levels). Thus, it would have been obvious to one of ordinary

skill in the art at the time the invention was made to adjust business operations according to well-

known methods based on the forecasts disclosed by Singh. This combination of known elements

produces a result that would be predictable to one of ordinary skill in the art. Furthermore, One

of ordinary skill in the art would have been motivated to do so for the benefit of increased

operating efficiencies.

Claim 21: Singh discloses wherein the retrieved data indicates an observed level of activity performed by the user at the merchant (see ¶ 47: lines 9-15, disclosing gathering compiled historical point-of-sale or customer order data to create a forecast).

Singh does not explicitly disclose wherein the activity is browsing activity. However, this deficiency is accounted for in the rejection of claim 1, above.

Claim 22: Singh discloses incorporating into the projection of future purchasing activity data indicating, during each of a plurality of past time periods, an observed level of purchasing activity performed by users with respect to the selected item (see ¶ 47: lines 9-15, disclosing using compiled historical point-of-sale or customer order data to create a forecast; ¶ 52: lines 6-8, disclosing a demand history database).

Claim 23: Claim 23 is substantially similar to claim 7, except that it is directed to a system. Singh discloses such a system (see figures 3 and 8); thus, claim 23 is rejected under similar rationale as claim 7.

Claim 24: Singh discloses wherein the retrieval subsystem retrieves data indicating an observed level of activity performed by users at the merchant's web site (see figure 3: 301a-c; ¶ 52, disclosing storing and extracting the activity data from a database; see ¶ 3, disclosing using the invention with an e-business).

Singh does not explicitly disclose wherein the activity is browsing activity. However, this deficiency is accounted for in the rejection of claim 1, above.

Claim 25: Singh discloses wherein the retrieval subsystem retrieves data indicating an

observed level of activity performed by users at a plurality of web sites, including the merchant's

web site (see ¶ 3, disclosing using the invention with an e-business; figure 1: item 103, depicting

gathering information from a variety of locations).

Singh does not explicitly disclose wherein the activity is browsing activity. However,

this deficiency is accounted for in the rejection of claim 1, above.

Claim 33: Claim 33 is substantially similar to claims 1-3, and is rejected under similar

rationale.

Claim 34: Claim 34 is substantially similar to claims 1-3, except that it forecasts demand

for a plurality of items rather than one item. Singh teaches this limitation (see e.g. figure 1).

Thus, claim 34 is rejected under similar rationale as claims 1-3.

Double Patenting

12.   Claims 1, 7, 9-13, and 21-25 of this application conflict with claims 1-12 of Application

No. 10/830860. 37 CFR 1.78(b) provides that when two or more applications filed by the same

applicant contain conflicting claims, elimination of such claims from all but one application may

be required in the absence of good and sufficient reason for their retention during pendency in

more than one application. Applicant is required to either cancel the conflicting claims from all

but one application or maintain a clear line of demarcation between the applications. See MPEP

§ 822.

Claims 1, 7, 9-13, and 21-25 are provisionally rejected on the ground of nonstatutory

obviousness-type double patenting as being unpatentable over claim 1-12 of copending

Application No. 10/830860. Although the conflicting claims are not identical, they are not

patentably distinct from each other because eliminating limitations from the claims of the

reference application would have been obvious to one of ordinary skill in the art at the time the

invention was made.

This is a <u>provisional</u> obviousness-type double patenting rejection because the conflicting

claims have not in fact been patented.

13.   The nonstatutory double patenting rejection is based on a judicially created doctrine

grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or

improper timewise extension of the "right to exclude" granted by a patent and to prevent possible

harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection

is appropriate where the conflicting claims are not identical, but at least one examined

application claim is not patentably distinct from the reference claim(s) because the examined

application claim is either anticipated by, or would have been obvious over, the reference

claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re*

Goodman, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225

USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re*

Vogel, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163

USPQ 644 (CCPA 1969).

   A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may

be used to overcome an actual or provisional rejection based on a nonstatutory double patenting

ground provided the conflicting application or patent either is shown to be commonly owned

with this application, or claims an invention made as a result of activities undertaken within the

scope of a joint research agreement.

   Effective January 1, 1994, a registered attorney or agent of record may sign a terminal

disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR

3.73(b).

Conclusion

14.   The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure.

- US 6,249,774 to Roden et al, directed to replenishing items based on demand

- US 6,912,505 to Linden et al, directed to identifying complementary products

- US 2002/0138358 to Scheer, directed to selecting a fulfillment plan for moving an
  item within a supply chain

- US 2003/0191653 to Birnbaum et al, directed to using advertising data to forecast
  demand

- US 2004/0249698 to Kuono et al, directed to using advertising data to forecast
  demand

15.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Neil R. Kardos whose telephone number is (571) 270-3443. The

examiner can normally be reached on Monday through Friday from 9 am to 5 pm.

        If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Beth Van Doren can be reached on (571) 272-6737. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

        Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

                                                Neil R. Kardos
                                                Examiner
                                                Art Unit 3623

NRK
7/10/08
/Jonathan G. Sterrett/
Primary Examiner, Art Unit 3623